

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ELIJAH JOHNSON,

Plaintiff,

v.

ATTORNEY DECLARATION

Civil Action No.: 5:16-CV-00622
(BKS/ML)

CITY OF SYRACUSE, POLICE OFFICER
MAURO, POLICE OFFICER LASHOMB, POLICE
OFFICER QUONCE, and UNIDENTIFIED SYRACUSE
POLICE OFFICERS, all sued herein in their capacity as
Individuals,

Defendants.

CHRISTINA F. DeJOSEPH, pursuant to Section 1746 of Title 28 of the United States Code, under the penalty of perjury, to the best of my knowledge, declares:

1. I am duly admitted to practice law before this Court. I am also a Senior Assistant Corporation Counsel for the City of Syracuse (“the City”), and represent Defendants the City of Syracuse (“City”), Damon Lockett (“Officer Lockett”), Paul Montalto (“Officer Montalto”), Brian Novitsky (“Sergeant Novitsky”), and Frank L. Fowler (“Chief Fowler”) (collectively “Defendants”) in the above-entitled action.

2. I am sufficiently familiar with the facts and circumstances of this case and submit this Declaration in opposition to Plaintiff’s motion for attorneys’ fees and costs pursuant to 42 U.S.C. § 1988 and Federal Rules of Civil Procedure (“Fed. R.Civ. P.”) 54(d).

3. For purposes of clarity and ease of reference, I have attached the billing records originally submitted in support of Plaintiffs’ motion, edited with color-coded highlighting to reflect and emphasize what I have identified improper and non-reimbursable hours. They are otherwise true

and accurate copies of the billing records submitted in support of Plaintiff's motion:

- a. Attached as **Exhibit "A"** is a copy of Attorney Fred Lichtmacher's billing records for which he is seeking reimbursement, previously filed with the court in support of the instant motion. (*see* Dkt. No. 159-5).
 - b. Attached as **Exhibit "B"** is a copy of Attorney Sherry Wang's billing records for which she is seeking reimbursement, previously filed with the court in support of the instant motion. (*see* Dkt. No. 159-4).
 - c. Attached as **Exhibit "C"** is a copy of Shelly Chen's billing records, previously filed with the court in support of the instant motion. (*see* Dkt. No. 159-12).
4. I have highlighted billing records in various colors as set forth below to indicate the basis for Defendants' objection to the claimed fees requiring exclusion or reduction as appropriate:
- a. Red: Billing entries highlighted in RED reflect time spent on secretarial tasks.
 - b. Orange: Billing entries highlighted in ORANGE reflect excessive and/or duplicative time entries, overstaffing.
 - c. Yellow: Billing entries highlighted in YELLOW reflect time associated with Plaintiff's underlying criminal proceedings.
 - d. Green: Billing entries highlighted in GREEN reflect time spent on pursuing claims claims that were ultimately unsuccessful, including those against Sgt. Quonce and Det. LaShomb, who was a prevailing party in this case. It should be noted that it was not possible to discern or assign all time spent pursuing claims against the City and the individual defendants who ultimately prevailed (e.g. time spent drafting the complaint, certain aspects of trial preparation), but the billing entries are highlighted to the extent practicable.

- e. Blue: Billing entries highlighted in BLUE reflect miscellaneous non-compensable time (e.g. time spent on discontinued claims, travel for depositions where there was no travel, conferences that did not occur).
- f. Purple: Billing entries highlighted in PURPLE reflect vague, ambiguous, or otherwise non-specific time spent on a particular task making it impossible to determine its purpose.
- g. Gray: Billing entries highlighted in GRAY reflect travel time (which Plaintiff indicates was not factored into his fee request, but is highlighted nonetheless)

32. Based upon the Defendants' Memorandum of Law and the exhibits attached to this Declaration, Defendants respectfully request that this Court reduce Plaintiff's Attorney Fees and Costs and any other relief that this Court deems just and proper.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on August 13, 2019
Syracuse, New York

/s/
CHRISTINA F. DEJOSEPH, ESQ.
Senior Assistant Corporation Counsel
Federal Bar Roll No.: 514784